

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

MEDICAL SERVICES POLICY MANUAL, SECTION B

B-300 Aid to the Aged, Blind and Disabled (AABD) Eligibility Groups

B-330 Workers with Disabilities

MS Manual ~~01/01/22~~[03/22/25](#)

This group consists of individuals who:

- Have a disability;
- Are working at the time of application (~~r~~Refer to Glossary for definition of working-);
- Are at least sixteen (16) years of age, but less than sixty-five (65) years of age; and
- Except for earned income, would be income eligible to receive Supplemental Security Income (SSI).

If an individual was not an SSI or SSA disability recipient, a disability determination must be made by the DHS Medical Review Team (MRT). Refer to [MS F-122](#).

Substantial Gainful Activity (SGA) is not considered for the disability determination. In addition, the individual's total unearned income (minus the ~~twenty-dollar~~[twenty-dollar](#) (\$20) general exclusion) must be under the SSI payment amount for one (1) person to qualify for this group.

Recipients will be able to access services through [Community Employment Support \(CES\)](#) or ARChoices Waiver, provided [that](#) the medical criteria for ARChoices [or CES](#) have been met as well as the financial criteria of the Workers with Disabilities group. Refer to [MS C-240](#) for guidance ~~and procedures~~ regarding the medical assessment process.

~~If a~~[Applicants](#)~~applicants~~ ~~will be advised by their eligibility worker that if they~~ accept services from ARChoices ~~Waiver or CES Wavier~~ providers while their applications are pending and are subsequently denied for ARChoices ~~Waiver or CES Waiver~~, they will be responsible for paying the provider.

Recipients of Health Care in the Workers with Disabilities category will be eligible for the full range of Health Care services.

MEDICAL SERVICES POLICY MANUAL, SECTION I

~~I-500 Categorical Changes~~

~~I-50070 W Categorical Changes~~
~~workers with Disabilities Eligible to Receive ARChoices~~

I-570 Workers with Disabilities Eligible to Receive ARChoices and CES Waiver Services

Refer to Health Care Procedures Manual for more information.

MS Manual ~~07/01/20~~03/22/25

The ARChoices and Community Employment Support (CES) Waivers ~~has been amended to~~ include the Workers with Disabilities category as a group that is eligible for services within the Waivers. In order to be eligible for ~~the~~ ARChoices or CES Waiver services and the Workers with Disabilities category, applicants must meet both the functional need criteria of the ARChoices and CES Waiver program (MS F-155 and MS B-317) and the financial criteria of the Workers with Disabilities category (MS B-330).

Recipients will be able to access services through ARChoices or CES Waivers, provided that the medical criteria for ARChoices or CES have been met as well as the financial criteria of the Workers with Disabilities group. Refer to MS C-240 for guidance and procedures regarding the medical assessment process.

Referral for Assessment

~~When an applicant or recipient of the Workers with Disabilities category applies for the services available within the ARChoices category, the DHS RN will be notified to coordinate an assessment of medical necessity (functional need) and develop a service plan. For a recipient of the Workers with Disabilities category, completion of a new application is not necessary unless it is time for the annual reevaluation of the Workers with Disabilities category.~~

County Office Eligibility Determination

~~The eligibility worker will determine if the applicant meets the eligibility requirements of the Workers with Disabilities category. Refer to MS B-330 and E-110.~~

~~For Workers with Disabilities/ARChoices cases, disability will be determined using the Workers with Disabilities criterion which allows an individual to earn over the Substantial Gainful Activity (SGA) level at the time of application. MS F-120 provides guidance on when to refer to MRT for a disability decision. A referral to MRT is not necessary for an applicant who received SSI or SSA disability within the last year and lost entitlement solely due to employment or when an applicant is still considered as an active SSI or SSA disability recipient whose cash benefits were suspended due to earnings. However, to be eligible for ARChoices Waiver, the disability must be determined as physical.~~

~~The applicant or recipient may be eligible for retroactive eligibility, if needed, for the Workers-~~

MEDICAL SERVICES POLICY MANUAL, SECTION I

I-500 Categorical Changes

I-50070 W Categorical Changes workers with Disabilities Eligible to Receive ARChoices

~~with Disabilities category (MS A-200). However, the individual will not be eligible for the ARChoices Waiver until the day of the month in which the Waiver eligibility is finalized by the eligibility worker (MS A-200) unless a retroactive eligibility date is established by the DHS RN. Refer to MS C-247.~~

ARChoices and CES Transition to the Workers with Disabilities Category

ARChoices and CES recipients may also request to transition to the Workers with Disabilities category. Once the eligibility worker determines eligibility for the Workers with Disabilities category, the ARChoices or CES category will be closed, and the Workers with Disabilities category will be approved effective with the day after closure.

Note: An ARChoices applicant or recipient may still be eligible for ARChoices when employed, as long as the individual's his/her total income (earned and unearned) does not exceed the Waiver income limit. Also, an individual can remain categorically eligible for the ARChoices Waiver when they are SSI eligible but no longer in payment status. Social Security Disability rules allow beneficiaries to earn over the SGA limit during their Trial Work Periods and Extended Periods of Eligibility. In this case, verification of income and resources is not required; however, medical necessity must be met as well as verification that a physical disability exists.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Medical Services Policy Sections B-330 and I-570

Statement of Necessity

The Division of County Operations (DCO) amends the Medical Services Policy Manual to clarify services allowed Workers with Disabilities (WWD). The rule allows WWD the option to access services through the ARChoices Waiver or the Community and Employment Support (CES) Waiver provided the medical and financial criteria for either waiver has been met. These updates align the Medical Services Policy Manual with the requirements as stated in the waivers.

Summary of Changes

DCO revises the Medical Services Policy Manual as follows:

1. Section B-330 Workers with Disabilities:
 - a. Added “Community Employment Support (CES) or” to comply with Waiver requirements;
 - b. Added “or CES” throughout to comply with Waiver requirements;
 - c. Corrected format of policy reference;
 - d. Corrected sentence format by adding “If” and lower case “a”; and
 - e. Removed information about procedures;
2. I-570 Workers with Disabilities Eligible to Receive ARChoices and CES Waiver Services:
 - a. Added “Refer to Health Care Procedures Manual for more information”;
 - b. Added “and Community Employment Support (CES)” to make clear
 - c. Added “or CES” to include this option as a service choice for WWD
 - d. Added reference to policy “MS B-317”
 - e. Added “Recipients will be able to access services through ARChoices or CES Waivers provided the medical criteria for ARChoices or CES have been met as well as the financial criteria of the Workers with Disability group. Refer to MS C-240 for guidance and procedures regarding the medical assessment process.”
 - f. Removed information regarding business process to go into the business procedure manual
 - g. Updated “his/her” to “individual’s” for simplicity of language in the policy; and
3. Global changes include changing “Medicaid” to “Health Care Program”, removed “pin” graphics before notes for formatting consistency with other sections of the manual, and updated grammar and style to match other manual sections not part of this rule.

NOTICE OF RULEMAKING

The Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201, 20-77-107, and 25-10-129.

The Director of the Division of County Operations (DCO) amends the Medical Services Policy Manual sections B-330 and I-570 to clarify services allowed for Workers with Disabilities (WWD) as stated in the ARChoices Waiver and Community and Employment Support (CES) Waiver. The rule allows WWD the option to access services through either waiver provided the medical and financial criteria for either waiver has been met. The proposed effective date is March 22, 2025. The estimated financial impact is \$275,000.00 (State \$77,000.00; Federal \$198,000.00) for State Fiscal Year (SFY) 2024 and \$0.00 for SFY 2025.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at ar.gov/dhs-proposed-rules. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than September 15, 2024. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Policy and Rules at 501-320-6428. The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed, and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. 4502201653

Mary Franklin, Director
Division of County Operations